

CHAPTER 96: NOISE CONTROL AND OTHER SENSORY CONTROL

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GENERAL PROVISIONS

§ 96.01 SCOPE.

This chapter shall apply to the control of all noise within the city limits, as they exist now or may hereafter be established.

(Ord. G-21-93, passed 6-8-93)

§ 96.02 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CONSUMER FIREWORKS. A small firework that is designed primarily to produce visible or audible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling requirements promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. Propelling and expelling charges consisting of a mixture of charcoal sulfur and potassium nitrate are not considered to be designed to produce an audible effect. Consumer fireworks include:

- (1) Aerial devices, which include, but are not limited to, sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines and shells;
- (2) Ground audible devices, which include, but are not limited to, firecrackers, salutes and chasers; and
- (3) Firework devices containing combinations of the effects described in divisions (1) and (2) above.

CONSUMER FIREWORKS do not include the following fireworks as referenced in IC 22-11-14-8(a):

- (1) Dipped sticks or wire sparklers. However, the total pyrotechnic composition may not exceed 100 grams per item; and devices containing chlorate or perchlorate salts may not exceed five grams per item;
- (2) Cylindrical fountains;
- (3) Cone fountains;
- (4) Illuminating torches;
- (5) Wheels;
- (6) Ground spinners;
- (7) Flitter sparklers;

- (8) Snakes or glow worms;
- (9) Smoke devices;
- (10) Trick noisemakers that include party poppers, booby traps, snappers, trick matches, cigarette loads and auto burglar alarms.

DIRECTIONAL LIGHTING. Any exterior lighting fixture that is placed so as to create a direct path of light aimed toward an object or structure or an exterior lighting fixture that has the capability of swiveling, turning or rotating the aim or direction to the light path including but not limited to flood lights, bullet and/or spot lights.

EXTERIOR LIGHTING. Any directional lighting source that is mounted on or about the exterior of a residential property that emits any level of light, other than a lighting source in a public right-of-way.

FULLY SHIELDED. A fixture with housing or attachment thereto which prevents a line of sight to the bulb when viewed from another property.

GLARE. Discomfort experienced by an observer with a direct line of sight to the light source which results in annoyance, discomfort or loss of visual performance causing visual impairment.

LUMENS. Measure of brightness of the illumination exiting a bulb.

MOTOR VEHICLE. Any vehicle powered by a mechanical engine, and designed to be driven or used on any public or private property. Such definition shall include, but not be limited to: automobiles, vans, trucks, motorcycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, and trail bikes.

PERSON. Any individual, association, partnership or corporation which includes any officer, employee, department, agency or instrumentality.

(Ord. G-21-93, passed 6-8-93; Am. Ord. G-15-07, passed 6-12-07; Am. Ord. G-15-08, passed 12-9-08)

§ 96.03 LOUD AND UNNECESSARY NOISE PROHIBITED.

(A) It shall be a violation of this chapter for a person to make any loud, raucous, improper, unreasonable, offensive or unusual noise, disorder or tumult, which disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city, or to permit such noise, disorder or tumult to be made in or about his/her house or premises, and the same is hereby declared to be a public nuisance.

(B) Further, it shall be the duty of every owner, occupant, manager, agent or operator of any property, structure, vehicle, or business in the city, to prevent persons using property under their control from violating this chapter.

(Ord. G-21-93, passed 6-8-93)

§ 96.04 ENUMERATION OF CERTAIN PROHIBITED ACTS.

The following acts, uses or noises, among others, subject to specific exemptions, are declared to be loud, raucous or disturbing noises in violation of this chapter. Such enumeration shall not be deemed to be exclusive:

(A) Using, operating or permitting to be played, used or operated any machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or property in which such machine or device is operated and who is a voluntary listener.

(B) Using, operating or permitting the use or operation of any machine, instrument or device capable of producing or reproducing of sound which is cast upon other properties including the public right-of-way for the purposes of commercial advertising or to attract attention to any activity, performance, sale, place or structure.

(C) Using, operating or permitting the use or operation of and machine, instrument or device capable of producing or reproducing any sound on any public transportation vehicle.

(D) Using, operating or permitting to be played, used or operated any machine or device for the producing or reproducing of sound on any public right-of-way adjacent to any school, institution of higher learning, church or court while the same are in use, or adjacent to any hospital which unreasonably interferes with the working of such institution, or which unduly disturbs patients in the hospital.

(Ord. G-21-93, passed 6-8-93)

§ 96.05 PROHIBITED NOISE.

No person shall play, use, operate or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, if it is located in or on any of the following:

- (A) Any public property, including any public right-of-way, highway, building, sidewalk, park or

thoroughfare, if the sound generated is audible at a distance of 30 feet from its source;

(B) Any motor vehicle on a public right-of-way, highway, or public space if the sound generated is audible at a distance of 30 feet from the device producing the sound.

(Ord. G-21-93, passed 6-8-93)

MOTOR VEHICULAR NOISE

§ 96.15 CERTAIN ACTS CONSTITUTE PUBLIC NUISANCE.

The following acts are declared to be a public nuisance, but the enumeration of the particular offenses hereinafter particularly defined shall not be construed as limiting the generality of this chapter, or limiting the offense hereunder to the particular offense hereinafter enumerated:

(A) The continuous or repeated sounding of any horn or signal device of a motor vehicle when not used as a danger signal. Continuous shall be defined to include unnecessary or unreasonable periods of time.

(B) The use of any motor vehicle with appurtenances attached thereto so as to create loud or unnecessary grating, grinding, rattling or other noise.

(C) The use of any motor vehicle with or without the attachment of various appurtenances thereto so as to create loud or unnecessary grating, grinding, rattling or other noise or noises. This shall include the use of any vehicle said use of which causes excessive noise as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving the engine, or tire squeal.

(Ord. G-21-93, passed 6-8-93)

§ 96.16 EXEMPTIONS.

Exemptions shall not be permitted within any duly established *QUIET ZONE* when such zone is designated by appropriate signage. The following shall be exempted from the provisions of this chapter:

(A) Sound emitted from sirens of authorized emergency vehicles.

(B) Lawn mowers, garden tractors, and similar home power tools when properly muffled, between the hours of 8:00 a.m. and 9:00 p.m.

(C) Burglar alarms or other warning devices when properly installed on publicly or privately owned property, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.

(D) Celebrations on Halloween and legal holidays.

(E) Permitted parades or festivals, between the hours of 8:00 a.m. and 12:00 midnight, Sunday through Thursday; and between 8:00 a.m. and 1:00 a.m. Friday through Saturday.

(F) Attendant noise connected with the actual performance of athletic or sporting events and practices related to them.

(G) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work.

(H) Sounds associated with normal conduction of a legally established non-transient business when such sounds are customary, incidental and within the normal range appropriate for such use.

(I) In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven calendar days.

(Ord. G-21-93, passed 6-8-93; Am. Ord. G-06-06, passed 6-27-06)

CONSUMER FIREWORKS

§ 96.20 USE OF CONSUMER FIREWORKS.

No person within the corporate boundaries of the city shall use, ignite or discharge or permit to be used, ignited or discharged any type of consumer fireworks on any other day or time other than the following:

(A) June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, July 9 between the hours of 5:00 p.m. to two hours after sunset;

(B) Day before Memorial Day, Memorial Day, July 4, day before Labor Day and Labor Day between the hours of 10:00 a.m. and 12:00 midnight;

(C) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1;

(D) No other date or time is permitted for use of consumer fireworks.

(Ord. G-15-07, passed 6-12-07)

EXTERIOR LIGHTING

§ 96.25 USE OF EXTERIOR LIGHTING.

(A) Any directional exterior lighting on residential property should be designed, installed and maintained

so as to redirect or aim any directional light away from any adjoining residential property so as to avoid "light trespass".

(B) For the purposes of this section, **LIGHT TRESPASS** means:

(1) A light source causing glare that is on a line of sight to an observer five feet or more inside a residential property line; or

(2) Any outdoor light fixtures (on residential properties) emitting 600 or more lumens.

(C) *Compliance/avoidance of light trespass.* Compliance in avoiding light trespass for glare as defined in (B)(1) above is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

To avoid light trespass and achieve compliance with regard to outdoor light fixtures emitting 600 lumens or more as defined in (B)(2) above, said outdoor light fixtures shall be frosted glass or covered by frosted glass or other similarly translucent cover. Additionally, an outdoor light fixture emitting more than 1,000 lumens, except motion detector-activated lighting, shall be fully shielded to an observer at the property line. This can be achieved with fixture location, mounting height, natural artificial barriers on the texture owner's property, fixture shielding and other fixture design features.

(Ord. G-15-08, passed 12-9-08)

§ 96.30 ENFORCEMENT.

The Fort Wayne Police Department shall be charged with enforcing all provisions of this chapter. The Fort Wayne Police Department and the Fort Wayne Fire Department shall be charged with enforcing the provisions of § 96.25 of this chapter.

(Ord. G-15-07, passed 6-12-07; Am. Ord. G-15-08, passed 12-9-08)

§ 96.99 PENALTY.

Whoever violates any provisions of this chapter, upon conviction thereof, shall be fined not less than \$150 nor more than \$500 for each offense. Each day any violation shall continue shall constitute a separate offense.

(Ord. G-21-93, passed 6-8-93)